

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

FREDERICK DIXON,

Plaintiff,

v.

CIVIL ACTION NO. 5:05-cv-00218

WARDEN MARTY ANDERSON, et al.,

Defendants.

ORDER

By Standing Order entered on March 14, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation [“PF&R”]. Magistrate Judge VanDervort filed his PF&R on September 28, 2006 [Docket 56]. In that filing, the magistrate judge recommended that this Court grant Defendants’ Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [Docket 45], and remove this matter from the Court’s docket.

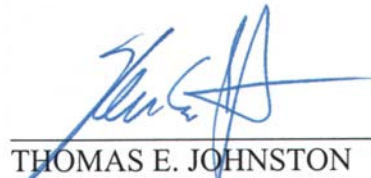
The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the Plaintiff’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge

VanDervort's PF&R were due by October 16, 2006, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. Civ. P. 72(b). No objections have been filed.

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge VanDervort, the Court adopts the recommendations contained therein. Accordingly, the Court hereby **GRANTS** Defendants' Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [Docket 45], and **DIRECTS** the Clerk to remove this action from the Court's active docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to all counsel of record, Plaintiff, *pro se*, and Magistrate Judge VanDervort.

ENTER: November 7, 2006



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE